

1 A Yes.

2 JUDGE CHACHKIN: You're talking about currently.

3 BY MR. EMMONS:

4 Q Currently and -- is it -- will that --

5 A He always has as long as I've been employed there.

6 Q Thank you. Would it be fair to say, in your
7 opinion, that George Gardner is a hands-on executive?

8 A Yes.

9 Q Would it be fair to say, in your opinion, that
10 George Gardner does now and has always exercised complete
11 control of Raystay Company?

12 MR. SCHAUBLE: Objection, Your Honor, as to the
13 relevance of these characterizations here.

14 JUDGE CHACHKIN: Overruled. This is the witness'
15 opinion.

16 MR. GARDNER: Could you --

17 MR. EMMONS: Sure.

18 MR. GARDNER: -- say the question?

19 BY MR. EMMONS:

20 Q Would it be fair to say, in your opinion, that
21 George Gardner does now and has always exercised complete
22 control of Raystay Company?

23 A To the best of the ability of a single person to
24 exercise complete control, yes.

25 Q Now, has your personal relationship with George

1 Gardner changed since April 1989?

2 MR. SCHAUBLE: Objection. Relevance.

3 MR. EMMONS: It goes directly to the question of
4 communication and trust, Your Honor.

5 JUDGE CHACHKIN: I'll overrule the objection.

6 MR. GARDNER: Yes.

7 BY MR. EMMONS:

8 Q How has it changed?

9 A He preferred to have me work through people that
10 he's hired, such as Lee Sandifer, to complete the work that I
11 do rather than having him directly supervise it.

12 Q Is it accurate to say that you and George Gardner no
13 longer speak to one another?

14 MR. SCHAUBLE: Objection. Relevance, Your Honor.

15 JUDGE CHACHKIN: I'll overrule the objection.

16 MR. GARDNER: We speak to one another.

17 BY MR. EMMONS:

18 Q Frequently?

19 A We speak to one another in an employer/employee
20 relationship on as regular a basis as any employer and
21 employee would speak to each other, where they both work in
22 the same connected building.

23 Q Let me ask you to turn to your deposition. That's
24 the yellow volume there, Page 187. Do you have Page 187?

25 A Yes.

1 Q And if you look at the line -- starting at Line 24,
2 down towards the bottom, I'm going to read the question and
3 answer there. You can read along with me, if you would, or
4 follow with me silently.

5 "Q Would you, in your own words, as you
6 understand the term, would you consider
7 that over the past four or five years,
8 you and George --"

9 MR. COHEN: Excuse me. Can you tell us again?
10 We're confused as to where you are.

11 JUDGE CHACHKIN: It's on Page 187, the bottom --

12 MR. COHEN: We're missing a page. Can John look
13 over your shoulder or look over David's shoulder?

14 MR. EMMONS: Certainly. I'll start reading over
15 again. I'm starting at Line 24 on Page 187.

16 "Q Would you, in your own words, as you
17 understand the term, would you consider
18 that over the past four or five years,
19 you and George Gardner have not been on
20 speaking terms?

21 A I'd say we were on speaking terms five
22 years ago and we are not on speaking
23 terms now and that situation has gone
24 from what it was five years ago to
25 progressively worse to where it is today."

1 MR. SCHAUBLE: Your Honor, I object. What is the
2 purpose for which this is being --

3 MR. EMMONS: I'm about to ask a question.

4 MR. SCHAUBLE: -- for which this is being offered?
5 Why is this being read into the record? I don't see anything
6 -- the question that was asked previously was a, I think, a
7 different --

8 JUDGE CHACHKIN: Well, it's to show the relationship
9 between George and David Gardner over the last five years and
10 it does cover the relevant period.

11 BY MR. EMMONS:

12 Q Mr. Gardner, is the answer that you gave in the
13 deposition testimony that I've read, appearing on Line -- on
14 Page 188, Lines Three through Seven, is that answer accurate?

15 A Yes.

16 Q So it is accurate to say that you are not on
17 speaking terms now with George Gardner?

18 A Not as a father/son relationship, no.

19 Q Now, you didn't state that qualification in your
20 answer at the time in your deposition, did you?

21 A No, I didn't. That was how I under-- that was how I
22 was reacting to your question at that time.

23 Q Now, do you typically meet with George Gardner?

24 A No. You're talking about presently.

25 Q I'm talking about presently and your answer was no

1 and let me go back now. Has that been the case over the last
2 five years?

3 A No.

4 Q Has there been a steady deterioration in that
5 situation over the past five years?

6 MR. SCHAUBLE: Objection, Your Honor. What --
7 objection to the form of the question, steady deterioration.
8 I'm not sure what that means.

9 JUDGE CHACHKIN: I'll sustain the objection.

10 BY MR. EMMONS:

11 Q Is it accurate to say that commencing five years
12 ago, April 1989 and since that time, you have met less and
13 less frequently with George Gardner?

14 A Yes.

15 Q And at what point, if any, did you stop meeting with
16 George Gardner?

17 JUDGE CHACHKIN: Are we talking in connection with
18 employment or are we talking personal or what?

19 MR. EMMONS: Well, the witness is going to have to
20 provide that explanation, Your Honor, if there is one -- if
21 there is such a --

22 JUDGE CHACHKIN: Well, I don't know what personal
23 has anything to do with it. If we're talking about a business
24 relationship, I think that's relevant.

25 MR. EMMONS: Well, let's confine the question, Mr.

1 Gardner, to a business relationship with George Gardner. Is
2 it correct to say that as of today, you do not meet on
3 business matters with George Gardner?

4 MR. GARDNER: No.

5 MR. SCHAUBLE: Excuse me, Your Honor. No, it's
6 incorrect?

7 MR. GARDNER: No, it's incorrect. I meet with
8 George Gardner on business matters.

9 BY MR. EMMONS:

10 Q Do you meet less frequently on business matters with
11 George Gardner than you used to?

12 A "Used to" being five years ago?

13 Q Over the past five years?

14 A Yes.

15 Q And why is that?

16 A George Gardner has hired a number of people to do a
17 lot of the jobs that he and I used to do, he and I and maybe
18 one other person used to do, and he has delegated the
19 authority to do many jobs now to other persons. So I meet
20 with them on those jobs rather than with him.

21 JUDGE CHACHKIN: We'll take a ten-minute recess at
22 this time.

23 (Whereupon, a brief recess was taken from 11:03 a.m.
24 until 11:15 a.m.)

25 JUDGE CHACHKIN: Back on the record. Mr. Emmons?

1 BY MR. EMMONS:

2 Q Mr. Gardner, when you communicate with George
3 Gardner on Raystay matters, do you communicate with him
4 exclusively in writing?

5 A No.

6 Q Do you communicate with him orally, directly?

7 A Yes.

8 Q Do you do that frequently?

9 A No.

10 Q Did George Gardner, at any time, ever give you
11 instructions that you were to communicate with him only
12 through Lee Sandifer?

13 A No.

14 Q Would you turn to your deposition, Page 23? Do you
15 have that?

16 A Yes.

17 Q Now, starting at Line 13, I'm going to read your
18 answer. The question related to communications with -- well,
19 let me go back earlier to the question and it starts on Line
20 One and I will quote, "Approximately how often in an average
21 week, for example, would you communicate with George Gardner
22 on business matters, not necessarily meeting person to person,
23 but communicating?" and your answer on Line Six, "You mean
24 prior to 1989?" and then on Line Seven, question, "No. From
25 1989."

1 Mr. Cohen says, "From '89 to July of '92?" Mr.
2 Emmons says, "Right," and your answer then was in the form of
3 a question, "Directly with George Gardner?" and Mr. Emmons
4 says, "Correct," and at that point, your answer was, "Not at
5 all. Not typically at all. My instructions were to
6 communicate through other people. In an emergency when other
7 people were not available, if I felt it was an emergency, I
8 would communicate directly to him. There were very few
9 emergencies."

10 My question to you, Mr. Gardner, is -- was that
11 answer that I just read of yours accurate and truthful?

12 A Yes.

13 Q So it is accurate to say that you were under
14 instructions to communicate with George Gardner through other
15 people, except in an emergency?

16 A When I was answering your question in the
17 deposition, my frame of mind for reference was more from a --
18 from the requirement of a written communication regarding a
19 contract or a license application or something like that.
20 George Gardner never gave me any specific instructions not to
21 communicate with him in the deposition. I was thinking of the
22 types of communications such as getting signatures on leases,
23 contracts, licenses, that sort of thing.

24 Q Well, what did you mean in your deposition when you
25 said, "My instructions were to communicate through other

1 people"?

2 A When I create a contract or a license for signatures
3 to go to George Gardner, I typically also create a
4 communication sheet which explains the contract name, who's
5 contracting for what, when the contract -- what time period
6 the contract is for, what general terms and conditions the
7 contract exists. That's the type of communication I was
8 thinking of whenever I answered your questions in the
9 deposition.

10 Q But my question is who -- well, let me ask you this
11 question. Who gave the instructions that you referred to in
12 your deposition answer there?

13 A Lee Sandifer.

14 Q Over the period of the last five years, has it been
15 George Gardner's practice from time to time to hold staff
16 meetings of Raystay's staff or management?

17 A Yes.

18 Q And do you typically attend such meetings?

19 A Not typically, no.

20 Q And why is that?

21 A There's a list put out of people who need to attend
22 and unless my name's on the list, I don't attend.

23 Q Do you know -- I take it from your answer that there
24 have been -- there have been occasions, perhaps a majority of
25 occasions, when your name has not been on a list of people to

1 attend. Is that correct?

2 A If my name's not on the list, I don't get the list
3 and therefore, I don't know the number of occasions that
4 there's been a list. So I don't know if I missed a majority
5 or attended a majority.

6 Q To your knowledge, does your relationship with
7 George Gardner have anything to do with your not being
8 included in staff meetings?

9 MR. SCHAUBLE: Objection, Your Honor. Are we
10 getting into the personal relationship again here?

11 JUDGE CHACHKIN: I'll overrule the objection.

12 MR. GARDNER: I suspect that it does.

13 BY MR. EMMONS:

14 Q I'm going to ask you to look at your deposition
15 again, Page 187. Do you have that before you?

16 A Yes.

17 Q I'm going to read the questions and answers starting
18 on Line 14.

19 "Q Was there a reason that you were not
20 regularly included in such meetings?

21 A Yes.

22 Q What was that?

23 A George Gardner doesn't like me. When
24 he and I are in the same room, nothing works.

25 Q Has that been the case for the past four or

1 five years?

2 A It's gotten progressively worse over the
3 past four or five years."

4 BY MR. EMMONS:

5 Q Was that testimony accurate and truthful when you
6 gave it?

7 A Yes.

8 Q Now, Mr. Gardner, earlier in your testimony, you
9 referred to a low-power television station owned by Raystay,
10 the call sign which was W40AF. Is that station licensed to
11 the community of Dillsburg, Pennsylvania?

12 A I believe it is, yes.

13 Q You don't know that for a fact?

14 A I always thought it was licensed to Carlisle. But
15 whenever the official documents come from the FCC or from
16 Cohen and Berfield, it always seems to list Dillsburg. So I
17 -- my personal belief is different than what the official
18 documents show.

19 Q Is Dillsburg close in distance to Carlisle?

20 A It is.

21 Q About how far away?

22 A I don't know. When you say Carlisle, do you mean
23 the borough of Carlisle or the communities surrounding the
24 borough of Carlisle?

25 Q Well, I guess --

1 A It's close. It's within ten miles.

2 Q All right. Now, is this low-power station often
3 referred to as TV 40?

4 A Yes.

5 Q All right. For purposes of my questions, I'm going
6 to use that term TV 40 rather than the call sign of the
7 station because TV 40 is easier to say and you'll understand
8 that that's the station I'm talking about?

9 A Yes.

10 Q Now, is it accurate that TV 40 commenced operation
11 in 1988?

12 MR. SCHAUBLE: Objection, Your Honor. Relevance.
13 We're not talking here about any of the construction permits
14 that were at issue in the extension applications. We're
15 talking about another station.

16 MR. EMMONS: Well, Your Honor, we crossed that
17 bridge in the admissions session when we established that the
18 concept of the new construction permits was integrally related
19 to the existence and operation of TV 40 and that the project
20 was integrally linked and so the background for TV 40 becomes
21 very relevant as the testimony will show.

22 JUDGE CHACHKIN: I'll overrule the objection.

23 MR. GARDNER: Could you repeat the question?

24 BY MR. EMMONS:

25 Q Is it correct that TV 40 commenced operation --

1 over-the-air operation in 1988?

2 A I don't remember the specific time period, but 1988
3 sounds reasonable.

4 Q And is it also correct, to your knowledge, that
5 Raystay filed its application for the TV 40 construction
6 permit back in 1984?

7 A Again, I don't remember the exact time period, but I
8 know that the application was filed a number of years prior to
9 that C.P. being granted.

10 Q Now, TV 40 still operates, is that correct, today as
11 we speak?

12 A Yes.

13 Q And it's still licensed to Raystay Company?

14 A Yes.

15 Q Now, have you, at any time, during the period of
16 operation of TV 40, played any role in the day to day
17 operations of TV 40?

18 A No.

19 Q Did you play any role in the FCC application process
20 for TV 40?

21 A Yes.

22 Q What was that?

23 MR. SCHAUBLE: Objection, Your Honor. Relevance.

24 JUDGE CHACHKIN: Overruled.

25 MR. GARDNER: I believe I did most, if not all, of

1 the work to make the application.

2 BY MR. EMMONS:

3 Q Did you -- once the application was granted, did you
4 play any role in the construction of TV 40?

5 A I reviewed the technical plan and helped in making
6 decisions on the technical plan.

7 Q By technical plan, what do you mean?

8 A Tower, antenna, location of the tower, wave guide,
9 transmitter, choosing a transmitter, a type of transmitter, a
10 manufacturer of transmitter, choosing studio equipment,
11 choosing a place to put studio equipment.

12 Q Who at Raystay was in charge of the construction
13 process for TV 40?

14 Q Now, did there come a time when Raystay decided to
15 file applications for five additional low-power construction
16 permit stations?

17 A Yes.

18 Q And were those five applications for the communities
19 of Lancaster, Pennsylvania and Lebanon, Pennsylvania, and Red
20 Lion, Pennsylvania?

21 A Yes.

22 Q And is it correct that applications were filed for
23 two frequencies each in Lancaster and Lebanon and one
24 frequency in Red Lion?

25 A Yes.

1 Q Now, whose idea was it, if you know, to -- for
2 Raystay to file for these additional five permits?

3 A The initial concept was mine.

4 Q And with whom did you discuss the concept?

5 A George Gardner.

6 Q And who made the decision to go forward and do it?

7 A George Gardner.

8 Q And what was the concept? What was the concept in
9 developing this idea? What was your business concept?

10 A To create a regional -- well, there were a couple of
11 concepts, but one was to create a regional coverage using
12 broadcast facilities to cover the same area that is generally
13 covered by full-power TV stations in the Harrisburg/Lancaster/
14 Lebanon/York market.

15 Q And was it your concept that TV 40 would be part of
16 that regional coverage?

17 A Yes.

18 MR. EMMONS: Your Honor, I'm going to ask that there
19 be identified as TBF Exhibit 266 a one-page exhibit which is a
20 map.

21 JUDGE CHACKIN: You say it's a coverage map of
22 what?

23 MR. EMMONS: It's not a coverage map, Your Honor.
24 It is a map of the region in question and I'll just have the
25 witness -- a couple of questions for the witness on it.

1 JUDGE CHACHKIN: The document described will be
2 marked for identification as Trinity Exhibit 266.

3 (Whereupon, the document referred
4 to as TBF Exhibit Number 266
5 was marked for identification.)

6 BY MR. EMMONS:

7 Q Mr. Gardner, do you have a copy of TBF Exhibit 266
8 in front of you?

9 A Yes.

10 Q The map. Now, I want to explain for the record and
11 make clear that there are four handdrawn arrows on the map and
12 those were placed on the map by me. They were not printed on
13 the map as the map was printed. But I want to just ask you if
14 you recognize the general area depicted on this map as being
15 the area of Harrisburg, York, Lancaster, and Lebanon,
16 Pennsylvania.

17 A Yes.

18 Q Now, the arrow on the left-hand side of the map
19 points approximately to the community of Dillsburg. Do you
20 see that?

21 A Yes.

22 Q And that, I take it, is the community to which TV 40
23 is licensed as we've previously discussed. Is that correct?

24 A Yes.

25 Q And you've testified that the applications were

1 | filed for construction permits for five additional stations to
2 | be licensed in three other communities and I want to invite
3 | your attention to the arrow at the top of the map or the top-
4 | most arrow on the map. Do you see that that points
5 | approximately to the community of Lebanon?

6 | A Yes.

7 | Q And the arrow to the right-hand side, do you see
8 | that that points approximately to the community of Lancaster?

9 | A Yes.

10 | Q And the arrow toward the bottom of the map, do you
11 | see that that points approximately to the community of Red
12 | Lion?

13 | A Yes.

14 | Q And do you see that the community of York,
15 | Pennsylvania is somewhat to the northwest of Red Lion?

16 | A Yes.

17 | Q Now, in your concept for regional coverage, does
18 | this map generally depict the region that you anticipated
19 | Raystay would want to cover with its additional low-power
20 | stations -- with existing TV 40 plus the additional permits?

21 | A Yes.

22 | MR. EMMONS: Your Honor, at this point, I'd offer
23 | TBF Exhibit 266 into evidence.

24 | JUDGE CHACHKIN: Any objection?

25 | MR. SCHAUBLE: No objection, Your Honor.

1 JUDGE CHACHKIN: TBF Exhibit 266 is now received.
2 (Whereupon, the document referred
3 to as TBF Exhibit Number 266 was
4 received into evidence.)

5 MR. EMMONS: Mr. Gardner, was it the concept that
6 the various low-power facilities located at the various
7 locations as applied for would combine essentially into one
8 large contiguous coverage area?

9 MR. SCHAUBLE: Your Honor, are we talking about at
10 the time the applications were filed?

11 MR. EMMONS: That's right. I'm talking about Mr.
12 Gardner's concept for the applications.

13 MR. GARDNER: No.

14 BY MR. EMMONS:

15 Q It was not your concept to do that? What did you
16 mean then by regional coverage?

17 A The contours as you stated would not meet and be
18 continuous or contiguous. There would be gaps.

19 Q There would be some gaps in coverage?

20 A Yes.

21 Q But the communities of license would receive
22 coverage from the stations as applied for, I assume.

23 A Yes.

24 Q Now, your concept included filing for two
25 frequencies each in Lebanon and Lancaster and my question to

1 | you is why did you decide to file for two frequencies in each
2 | of those communities rather than just one frequency?

3 | MR. SCHAUBLE: Objection, Your Honor, on the basis
4 | that I think the witness' previous testimony indicates that he
5 | did not make the final decision.

6 | JUDGE CHACHKIN: We're dealing with his concept.
7 | Overruled.

8 | MR. GARDNER: The frequencies that were available
9 | had limitations that required shielding from other existing --
10 | or existing facilities that would -- they had to protect
11 | against interference for those existing facilities and
12 | therefore, the antennas had to be either directional or we had
13 | to use geographical, geological type things like mountains to
14 | protect the already existing facilities.

15 | So rather than being an absolute circle, those
16 | C.P.'s that we eventually got were unusual shapes. They were
17 | more oblong than circular and therefore, using two facilities
18 | at Lancaster and Lebanon gave better coverage because the
19 | oblongs were not -- they didn't cover the same area. If one
20 | went left to right, the other one maybe went north to south.

21 | BY MR. EMMONS:

22 | Q So you could achieve more coverage with two
23 | frequencies in each of those communities than you could with
24 | just one frequency in each of those communities?

25 | A Yes.

1 Q Now, did there come a time in March 1989 when you
2 filed applications for these facilities with the FCC?

3 A Was that the first -- the first set of applications?
4 Is that what you're asking?

5 Q That's right. The first set of applications for the
6 construction permits for these five?

7 A Yeah. I don't remember the exact date, but yes, we
8 did file a set of applications for five frequencies.

9 Q If you would take a look at Volume 3B of the
10 exhibits in front of you which start with Number 203 and if
11 you would look generally at just enough to familiarize
12 yourself generally with 204 through 207 and I'm going to ask
13 you whether these are the applications -- I'm sorry, 203
14 through 207. I'm going to ask you whether these are the
15 applications that were filed with the FCC in March 1989.

16 A What number did you want me to look through?

17 Q 203 through 207.

18 A 207, okay.

19 Q Have you had a chance to do that now?

20 A Yes.

21 Q And do you recognize these as the five applications
22 filed by Raystay in March 1989?

23 A Yes.

24 Q And if you turn to Page -- let's start on 203, Page
25 Four, which is the signature page. Do you see the signature

- 1 towards the bottom of the page?
- 2 A Yes.
- 3 Q Is that your signature?
- 4 A Yes.
- 5 Q And likewise on Exhibit 204, Page Four. Is that
- 6 your signature?
- 7 A Yes.
- 8 Q And likewise on Page Four of Exhibit 205. Is that
- 9 your signature?
- 10 A Yes.
- 11 Q Now, on Page Two of Exhibit 206, is that your
- 12 signature?
- 13 A Yes.
- 14 Q And on Page Four of Exhibit 207, is that your
- 15 signature?
- 16 A Yes.
- 17 Q And do you see that you signed on March 7, 1989?
- 18 A Yes.
- 19 Q And that was while you were still vice-president of
- 20 Raystay.
- 21 A Yes.
- 22 Q Now, did you supervise the preparation of these
- 23 applications?
- 24 A Yes.
- 25 Q And did you work with counsel in that effort?

1 A Yes.

2 Q And during the period of preparation of these
3 applications, were you aware that Mr. Greg Dailey was locating
4 sites on behalf of Raystay at the Lebanon and Lancaster
5 locations?

6 MR. SCHAUBLE: Objection, Your Honor. Relevance.
7 We had an instance here earlier on where Trinity sought issues
8 relating to --

9 JUDGE CHACHKIN: Well, I'll overrule the objection,
10 just to establish that Mr. Dailey did the work. If it goes
11 any further than that, you can object.

12 MR. SCHAUBLE: Thank you, Your Honor.

13 BY MR. EMMONS:

14 Q Do you have a question?

15 A Yes. What was the question?

16 Q Let me ask a different question as a predicate. Did
17 Raystay retain Mr. Greg Dailey to help locate sites for
18 Raystay for these facilities in Lebanon and Lancaster?

19 A Yes.

20 Q And so you were aware that Mr. Dailey was doing that
21 work for Raystay?

22 A Mr. Dailey has a company named Telesat or something
23 like that and I knew we had the company doing it, but I didn't
24 know this -- who specifically was doing it at that time.

25 Q But that's Mr. Dailey's company?

1 A Whatever his company's name is, yes.

2 Q Now, what about the Red Lion site that was specified
3 in the Red Lion application? Was that site owned by Raystay
4 already?

5 A That site was owned by Waymaker.

6 Q Oh, Waymaker. I see. And was that an existing
7 tower?

8 A Yes.

9 Q Was that something that was used in connection with
10 either TV 40 or with Raystay's cable facilities?

11 MR. SCHAUBLE: Objection. Relevance.

12 MR. EMMONS: I'm just establishing background, Your
13 Honor.

14 JUDGE CHACHKIN: I'll overrule the objection.

15 MR. GARDNER: No.

16 BY MR. EMMONS:

17 Q But it was a tower owned by Waymaker?

18 A Yes.

19 Q Now, prior to the filing of these applications in
20 March 7 of 1989, did you personally go, take a look at the
21 sites that were being proposed in these applications?

22 A I don't recall the exact time that I made my first
23 visit to these sites in order to review them for ability to be
24 LPTV sites.

25 Q Well, at some point, you received from Mr. Dailey's

1 company, did you not, information about the sites that he had
2 selected?

3 MR. SCHAUBLE: Objection, Your Honor. Relevance.

4 JUDGE CHACHKIN: Sustained.

5 MR. EMMONS: Did you say sustained, Your Honor?

6 JUDGE CHACHKIN: Yes.

7 MR. EMMONS: May I speak to that?

8 JUDGE CHACHKIN: Yes.

9 MR. EMMONS: Your Honor, the witness' direct
10 testimony speaks about visits to the transmitter sites in
11 question and --

12 JUDGE CHACHKIN: Where does it say that?

13 MR. EMMONS: In Exhibit 209, Your Honor, at the
14 bottom of Page Five, referring to a statement made in the low-
15 power extension applications that are issue -- at issue in
16 this case. The witness speaks to a statement in that
17 application that says, "A representative of Raystay and an
18 engineer have visited the antenna site and ascertained what
19 site preparation work and modification need to be done at the
20 site," and then there's further testimony on that point.

21 The question of the witness' visits -- visit or
22 visits to the sites are very much at issue in this case, Your
23 Honor, as the testimony --

24 JUDGE CHACHKIN: Oh, I have no problem with that.
25 But you asked him whether he visited the site prior to the

1 construction, I believe, didn't you?

2 MR. EMMONS: Well, that's right. That question's
3 going to become quite relevant, Your Honor, as to when he made
4 his first visit and --

5 JUDGE CHACHKIN: Well, why don't you -- why don't
6 you ask him that?

7 MR. EMMONS: Well, I've asked him --

8 MR. SCHAUBLE: Your Honor --

9 MR. EMMONS: The witness has already testified, Your
10 Honor, that he doesn't recall when he made the first visit and
11 I want to test that testimony with a few questions.

12 JUDGE CHACHKIN: When did he say that?

13 MR. EMMONS: I thought he said that a few minutes
14 ago. Let me ask the question again.

15 BY MR. EMMONS:

16 Q Mr. Gardner, when was the first time you visited
17 either the Lebanon or the Lancaster site that's specified in
18 the low-power applications?

19 A I don't recall exactly when the first time was.

20 Q When was the first time you knew about the location
21 of the sites that were ultimately specified in the
22 applications?

23 A I don't recall exactly when, but it would have been
24 before the application was made.

25 Q Right. Because you had some information from Mr.